

ITW

Docket No. 042390.P9241

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Jacob K. Gotwals)	Examiner: Paul L. Kim
)	
Application No. 09/669,604)	Art Unit: 2857
)	
Filed: September 26, 2000)	Conf. No.: 5203
)	
For: METHOD AND SYSTEM FOR)	
AUTOMATICALLY INTERPRETING)	
COMPUTER SYSTEM PERFORMANCE)	
MEASUREMENTS)	
)	

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. § 1.181

Sir:

Applicant hereby petitions to withdraw the holding of abandonment under 37 C.F.R. § 1.181 as indicated on the Notice of Abandonment ("Notice") mailed from the Patent Office on August 3, 2005 for the above-identified patent application. The Notice states that the application was abandoned for a failure to timely file corrected drawings in response to the Notice of Allowability.

Applicant respectfully submits that a full set of formal drawings was timely filed in response to the Notice of Allowability mailed January 28, 2005. The formal drawings were deposited with the U.S. Postal Service as first class mail under 37 C.F.R. § 1.8 on April 18, 2005, which was ten days before the due date specified on the Notice of Allowability.

Therefore, applicant respectfully requests reconsideration and withdrawal of the holding of abandonment of the above-identified patent application on the basis that there is in fact no abandonment.

The following documents accompany this Petition in support of Applicant's request:

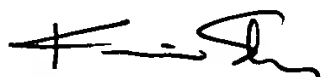
- 1) a copy of the Notice of Allowability mailed January 28, 2005 (Exhibit A);
- 2) a copy of the submission of formal drawings mailed on April 18, 2005 as indicated by the Certificate of Mailing stamps (Exhibit B);
- 3) Declaration in Support of the Petition Under 37 C.F.R. § 1.181 (Exhibit C);
- 4) a copy of the Notice of Abandonment dated August 3, 2005 (Exhibit D).

Applicant notes that no fees are required for this petition. However, in the event that any fees are due, please charge Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

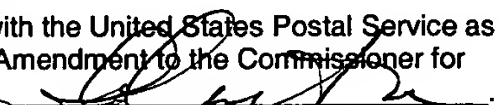
Date: September 21, 2005



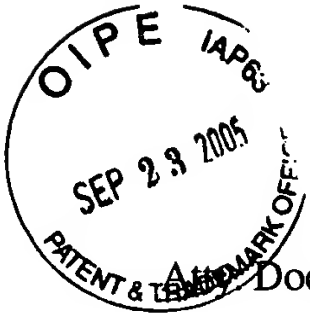
Kevin G. Shao
Reg. No. 45,095

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025
(408) 720-8598

FIRST CLASS CERTIFICATE OF MAILING

I, David Castro, hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Mail Stop Amendment to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on 09/21/05 by: 

David Castro



C

Docket No. 042390.P9241

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Jacob K. Gotwals)	Examiner: Paul L. Kim
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Application No. 09/669,604)	Art Unit: 2857
)	
Filed: September 26, 2000)	Conf. No.: 5203
)	
For: METHOD AND SYSTEM FOR)	
AUTOMATICALLY INTERPRETING)	
COMPUTER SYSTEM PERFORMANCE)	
MEASUREMENTS)	
)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF DAVID CASTRO IN SUPPORT OF THE
PETITION UNDER 37 C.F.R. § 1.181

Sir:

I, David Castro, hereby declare and say as follows:

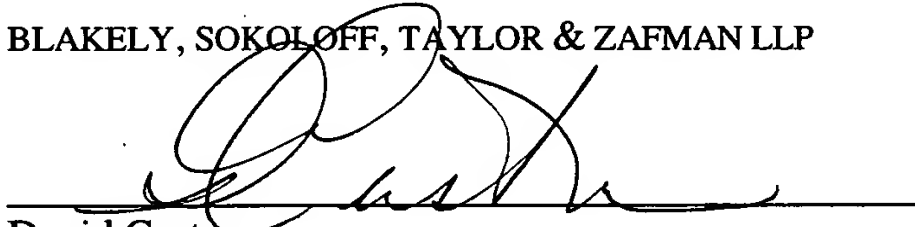
1. I am the legal secretary who works in conjunction with Kevin Shao (attorney), and a portion of my job duties includes filing patent correspondence with the Patent Office.
2. I filed the formal drawings for the above-noted patent application on April 18, 2005.
3. On August 11, 2005, I received a Notice of Abandonment from our docketing department in Los Angeles concerning this application. The Notice claimed that the application was abandoned for failing to timely file corrected drawings as required by the Notice of Allowability. I reviewed our file and found a copy of the formal drawings and accompanying

transmittal papers as filed on April 18, 2005, which was ten days before the due date specified on the Notice of Allowability.

I, David Castro, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such will false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: September 21, 2005



David Castro

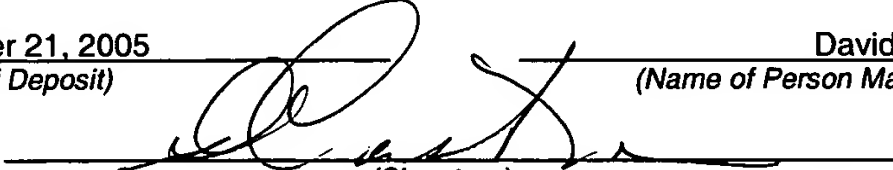
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(408) 720-8300

FIRST CLASS CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Mail Stop Amendment to the Commissioner for Patents, PO Box 1450, Alexandria, Virginia 22313-1450 on

September 21, 2005
(Date of Deposit)

David Castro
(Name of Person Mailing Correspondence)



(Signature)



UNITED STATES PATENT AND TRADEMARK OFFICE

ENTERED NA

Tale A

STATUS DB-LA

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov



NOTICE OF ALLOWANCE AND FEE(S) DUE

RECEIVED

FEB 01 2005

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
LOS ANGELES

John Travis
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

01/28/2005

EXAMINER	
KIM, PAUL L	
ART UNIT	PAPER NUMBER
2857	

DATE MAILED: 01/28/2005

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,604	09/26/2000	Jacob K. Gotwals	042390.P9241	5203

TITLE OF INVENTION: METHOD AND SYSTEM FOR AUTOMATICALLY INTERPRETING COMPUTER SYSTEM PERFORMANCE MEASUREMENTS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1400	\$0	\$1400	04/28/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.
- B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO

- A. Pay TOTAL FEE(S) DUE shown above, or

- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

ENTERED

FEB 07 2005

INTO DATABASE

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,604	09/26/2000	Jacob K. Gotwals	042390.P9241	5203

7590 01/28/2005

John Travis
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

EXAMINER

KIM, PAUL L

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 01/28/2005

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 335 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 335 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571) 272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.

Notice of Allowability



Application No.

09/669,604

Examiner

Paul L Kim

Applicant(s)

GOTWALS ET AL.

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed on December 14, 2004.
2. ☒ The allowed claim(s) is/are 1-27.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Allowance

1. Claims 1-27 are allowed.

The following is an examiner's statement of reasons for allowance: The examiner notes that none of the prior art of record discloses an apparatus or method for interpreting computer system performance measurements comprising: identifying behavioral properties based on measured behavioral data, each behavioral property including behavioral descriptions describing the property and a value representing a degree of relevancy of the behavioral property, generating an analysis, and suggesting what should be done in response. The prior art does not teach behavioral descriptions being used to determine an advice.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. The drawings are objected to because the text in figures 1-4 need to be typed instead of handwritten. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the

Art Unit: 2857

replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kumamoto teaches a fuzzy inference device which takes into account several variables in order to form a conclusion. Evans and Evans et al teach using attributes of a system in order to reach a solution.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Kim whose telephone number is 571-272-2217. The examiner can normally be reached on Monday-Thursday 10:00-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and for After Final communications.

Application/Control Number: 09/669,604

Page 4

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

PK

January 13, 2005

Marshall
MARCO S. HOFF
SUPERVISOR & CENT. EX. COLLEGE
TECHNICAL STAFF 2000

Notice of References Cited

SEP 23 2005

Application/Control No.

09/669,604

Applicant(s)/Patent Under
Reexamination
GOTWALS ET AL.

Examiner

Paul L Kim

Art Unit

2857

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,507,832	01-2003	Evans et al.	706/61
*	B	US-6,336,106	01-2002	Evans, Robert	706/12
*	C	US-5,434,955	07-1995	Kumamoto, Hiroshi	706/52
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



Application No.: 09/669,064 Filing/Issue Date: Sept. 26, 2000 Docket No.: 042390.P9241
 Date Mailed: 04/18/2005 Due Date(s): Atty/Sec: EHT/JPW/KGS/dmc

Client: Intel Corporation

Title: Method and System for Automatically Interpreting Computer System Performance Measurements

First Named Inventor: Jacob K. Gotwals

The following has been received in the U.S.P.T.O. on the date stamped hereon:

Transmittal Letters & Certificate of Mailing

- ☒ Transmittal Letter
- ☐ Fee Transmittal (original & copy)
- ☐ RCE (Request for Continued Examination)
- ☐ Transmittal of Formal Drawings
- ☐ Issue Fee Transmittal (original & copy)
- ☒ Certificate of Mailing
- ☐ Express Mail No.:

Missing Parts, Formal Papers

- ☐ Response to Notice of Missing Parts
- ☐ Assignment & Cover sheet (____ pgs.)
- ☐ Declaration & POA (____ pgs.)

Amendment / Response

- ☐ Amendment/Response (____ pgs.)
- ☐ Terminal Disclaimer
- ☐ Other:

Petitions & Appeals

- ☐ Petition for Extension of Time:
- ☐ Notice of Appeal
- ☐ Appeal Brief & two copies (____ pgs. each)
- ☐ Reply Brief (____ pgs.)

Other

- ☐ Information Disclosure Statement & PTO/SB/08 (____ pgs.) (previously 1449)
- ☐ Request to Publish (Rescind NonPublication)
- ☒ Drawings: 5 sheets, 5 figures
- ☒ Postcard

Checks

- ☐ Check No. _____ Amount \$ _____
- ☐ Check No. _____ Amount \$ _____

BEST AVAILABLE COPY

030
UNITED STATES PATENT AND TRADEMARK OFFICEInkl
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,604	08/03/2005	Jacob K. Gotwals	042390.P9241	5203

7590
John Travis
Blakely Sokoloff Taylor & Zafman LLP
12400 Wilshire Boulevard
7th Floor
Los Angeles, CA 90025

EXAMINER

KIM, PAUL L

ART UNIT

PAPER NUMBER

2857

DATE MAILED: 08/03/2005

RECEIVED

AUG 11 2005

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
LOS ANGELES

Please find below and/or attached an Office communication concerning this application or proceeding.

AUG 11 2005

STATIONER

Date 11/3/2005 Client: Intel Corporation

Docket Initials 42390.P9241

Dock. Sup. Initials

Atty Initials EHT JPW KGS

Pat/Ser/Reg 669604

Description: 39 x

Deadline to revive abandoned application

8/11/2005 Natalie Adair 446249

AUG 16 2005

m
c/s

Date 10/3/2005 Client: Intel Corporation

Docket Initials 42390.P9241

Dock. Sup. Initials

Atty Initials EHT JPW KGS

Pat/Ser/Reg 669604

Description: 39r

Reminder: Deadline to revive abandoned application is 11/3/05

8/11/2005 Natalie Adair 446250



Notice of Abandonment

Application No.

09/669,604

Examiner

Kim

Applicant(s)

Gotwals

Art Unit

2857

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☒ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

LGD

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



Attachment to Notice of Abandonment

**For questions concerning the notice contact
Office of Patent Publication**

Image Assistance Center: 888-786-0101.

Information is also available on the USPTO Internet web site:
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

Respond to the Notice of Abandonment by one of the following:

- 1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 703-872-9306

- 2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 703-872-9306

- 3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment